

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

v.

Honorable Sean F. Cox

Ariel Computing, Inc.,

Case No. 09-14192

Defendant.

ORDER

SETTING ASIDE CLERK'S ENTRY OF DEFAULT,
EXTENDING THE TIME FOR SERVICE, AND
DENYING MOTION FOR DEFAULT JUDGMENT WITHOUT PREJUDICE

On October 23, 2009, Plaintiff United States of America (“Plaintiff”) filed this action against Defendant Ariel Computing, Inc. (“Ariel”), seeking to reduce to judgment Ariel’s unpaid liabilities for federal internal revenue taxes, penalties, fees and interest. This matter is currently before the Court on Plaintiff’s Request for Entry of Default Judgment.

After reviewing the motion, the Court was concerned as to whether Ariel was properly served. This Court *sua sponte* raised the issue of service, prior to the July 29, 2010 hearing date, in a Show Cause Order. The Government has since responded.

Having reviewed the Government’s response to the Show Cause Order, the language of the Rule at issue, and non-binding case law that exists on this issue, the Court is not satisfied that Defendant was properly served. The Court shall therefore: 1) set aside the Clerk’s Entry of Default; 2) extend the time for service, to allow the Government to properly serve Defendant; and 3) Deny the Government’s Motion for Default Judgment without prejudice.

Accordingly, the Court ORDERS that the February 18, 2010 Clerk's Entry of Default is SET ASIDE.

IT IS FURTHER ORDERED that the Court hereby GRANTS the Government's request for an extension of time to serve Defendant. The Government shall serve Defendant within thirty (30) days of this Order.

IT IS FURTHER ORDERED that the Government's Motion for Default Judgment is DENIED WITHOUT PREJUDICE.

IT IS SO ORDERED.

S/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: August 12, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 12, 2010, by electronic and/or ordinary mail.

S/Jennifer Hernandez
Case Manager